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George Brookner

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte GEORGE BROOKNER

Appeal 2007-4057
Application 09/683,426
Technology Center 3600

Decided: May 29, 2008

Before HUBERT C. LORIN, ANTON W. FETTING, and
MICHAEL W. O'NEILL, *Administrative Patent Judges*.

O'NEILL, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Brookner (Appellant) seeks our review under 35 U.S.C. § 134 of the final rejection of claims 1-32 and 37-43. (App. Br. 2.) Claims 33-36 have been canceled. We have jurisdiction under 35 U.S.C. § 6(b) (2002).

SUMMARY OF DECISION

We AFFIRM.¹

THE INVENTION

The claimed invention is directed to a system and method for using postage indicia purchased by a purchaser.

Claims 1, 10, 20, 30, and 37-42, reproduced below, are representative of the subject matter on appeal.

1. A method for use with mail pieces and with a purchaser having an identity, the method comprising the steps of:

requiring, as a precondition of purchasing at least one postal indicium, receipt of first information indicative of the purchaser's identity,

deriving by electronic computation second information functionally from said first information;

printing said second information upon the at least one postal indicium;

receiving an addressed mail piece with the at least one postal indicium into the mail; and

delivering the addressed mail piece.

10. A method for use with purchased postal indicia, with mail pieces and with a purchaser having an identity, the method comprising the steps of:

requiring, as a precondition of receiving at least one addressed mail piece with a postal indicium into the mail, that the postal indicium bear second information

¹ Our decision will make reference to Appellants' Appeal Brief ("App. Br.," filed Mar. 12, 2006), Reply Brief ("Reply Br.," filed Aug. 21, 2006), and the Examiner's Answer ("Ans.," mailed Jun. 20, 2006).

derived by electronic computation from first information indicative of the identity of the purchaser; receiving the at least one addressed mail piece with the postal indicium into the mail; and delivering the at least one addressed mail piece.

20. A method for use with purchased postal indicia, with mail pieces and with a purchaser having an identity, the method comprising the steps of:

requiring, as a precondition of delivering at least one addressed mail piece with a postal indicium, that the postal indicium bear second information derived by electronic computation from first information indicative of the identity of the purchaser; receiving the at least one addressed mail piece with the postal indicium into the mail; and delivering the at least one addressed mail piece.

30. A method for use with mail pieces and with a recipient possessing a list of expected senders, and with a sender having an identity, the method comprising the steps of:

receiving a delivered mail piece bearing a postal indicium, the postal indicium bearing second information derived by electronic computation from first information indicative of the identity of the sender; reading the second information indicative of the identity of the sender; and determining whether the sender whose identity is indicated by the second information is on the list of expected senders.

37. An adhesive postal indicium comprising: information indicative of a postage amount printed by a first process;

information indicative of a country printed by the first process; and

cryptographically signed information indicative of an identity of a purchaser of the adhesive postal indicium;

the cryptographically signed information printed by a different process than the first process.

38. A plurality of adhesive postal indicia, each postal indicium comprising:

information indicative of a postage amount printed by a first process;

information indicative of a country printed by the first process; and

cryptographically signed information indicative of an identity of a purchaser of the adhesive postal indicia;

the cryptographically signed information printed by a different process than the first process.

39. Printing apparatus comprising:

a plurality of adhesive postal indicia, each postal indicium comprising information indicative of a postage amount and information indicative of a country, each postal indicium free of any cryptographically signed information indicative of an identity of a purchaser of the postal indicia; and

a printer adapted to print upon the plurality of adhesive postal indicia cryptographically signed information indicative of an identity of a purchaser of the adhesive postal indicia.

40. A method for use with printing apparatus comprising a plurality of adhesive postal indicia, each postal indicium comprising information indicative of a postage amount and information indicative of a country, each postal indicium free of any cryptographically signed information indicative of an identity of a purchaser of the

postal indicia, and a printer adapted to print upon the plurality of adhesive postal indicia, the steps of:

receiving information indicative of an identity of a purchaser of the adhesive postal indicia;

cryptographically signing the information indicative of the identity of the purchaser of the adhesive postal indicia; and

printing upon the adhesive postal indicia, by means of the printer, information indicative of the cryptographically signed information.

41. A method for use with mail pieces and with a recipient possessing a list of expected senders, and with a sender having an identity, the method comprising the steps of:

receiving a delivered mail piece bearing a postal indicium, the postal indicium bearing second information derived by electronic computation from first information indicative of the identity of the sender;

reading, by the recipient, the second information indicative of the identity of the sender; and

determining, by the recipient, whether the sender whose identity is indicated by the second information is on the list of expected senders.

42. The method of claim 41 further characterized in that the information indicative of the identity of the sender that is borne in the postal indicium is cryptographically signed, and further characterized in that the reading step further comprises checking the cryptographic signature.

THE PRIOR ART

The Examiner relies upon the following as evidence of unpatentability:

Kara

US 5,717,597

Feb. 10, 1998

Windel
Ruat

US 5,953,426
WO 95/20200

Sep. 14, 1999
Jul. 27, 1995

THE REJECTIONS

The following rejections are before us for review:²

Claims 1-5, 7-14, 16-24, 26-29, and 37-40 rejected under 35 U.S.C. § 102(b) as being anticipated by Kara.

Claims 30, 31, 41, and 42 rejected under 35 U.S.C. § 102(b) as being anticipated by Ruat.

ISSUES

The first issue is whether the Appellant has shown that the Examiner erred in rejecting claims 1-5, 7-14, 16-24, 26-29, and 37-40 as being anticipated by Kara. This issue turns on how to construe the term

² The Appellant appeals the rejection of claims 1-32 and 37-43. (App. Br. 2.) The Appellant has not requested the rejections of claims 6, 15, 25, 32, and 43 under 35 U.S.C. § 103(a) be reviewed on appeal. (App. Br. 8-9.) Instead, the Appellant appears to request only the anticipation rejections under 35 U.S.C. § 102(b) of the claims 1, 10, 20, 30, and 37-42 be reviewed on appeal and groups claims 6, 15, 25, 32, and 43 along with claims 2-5, 7-9, 11-14, 16-19, 21-24, and 26-31 to their corresponding independent claims, namely, claims 1, 10, 20, 30, 37, 40, and 41. (*Id.*) The Examiner has included the obviousness rejections under 35 U.S.C. § 103(a) of claims 6, 15, 25, 32, and 43 in the Answer. (Ans. 7.) The Appellant has not requested the withdrawal of appeal as to these claims in the Reply Brief. Accordingly, claims 6, 15, 25, 32, and 43 are before us to review whether the Examiner erred in rejecting these claims.

“purchaser” and the persuasiveness of the arguments of how one skilled in the art would understand Kara’s disclosure.

The second issue is whether the Appellant has shown that the Examiner erred in rejecting claims 30, 31, 41, and 42 as being anticipated by Ruat. This issue turns on who can be considered a recipient of mail.

FINDINGS OF FACT

We find that the following enumerated findings of fact are supported by at least a preponderance of the evidence. *Ethicon, Inc. v. Quigg*, 849 F.2d 1422, 1427 (Fed. Cir. 1988) (explaining the general evidentiary standard for proceedings before the Office).

1. A “purchaser” is one who obtains, gains, or acquires something through some means: money, labor, danger, or sacrifice. *Merriam-Webster Collegiate Dictionary* 956 (9th ed., 1983).
2. Kara describes a postal storage device 18 being at least a smart card 186. Whether a smart card or another described embodiment, the postal storage device 18 contains encrypted data that provides secure access to the postage, a copy of a program to use the device 18, and, once installed, verifies the user’s identify before allowing access to the postage. The postal storage device 18 can be acquired through a retail outlet. The program on device 18 assists the user or individual through installation. Once installation is complete the program requires the user to fill out information to identify the user of this postal storage device 18 such as: user’s full name and address, an identification number for the authorized user (i.e., an employer

- identification number (EIN) or social security number (SSN)), the user's zip code, and the user's telephone and facsimile numbers. (Kara, col. 5, ll. 26-34 and l. 59 to col. 6, l. 25 and Figures 1B and 2.)
3. Kara describes the installed program maybe further programmed to incorporate information regarding the identity of the user into an encrypted message that will be printed on or adjacent the postage indicia. Kara describes by applying the encrypted information onto an envelope to be received into the mail, the Post Office can scan the encrypted information to verify correct postage and to track the use of the postage storage devices 18. (Kara, col. 16, ll. 35-60.) Tracking the postage storage device would in turn track the purchaser of that particular postage storage device used to apply the postage to the envelope that has been received by the mail.
 4. Ruat describes in the equipment shown in Figure 1 is intended to be installed at the site of a mailing envelope sender to whom the equipment has been rented, lent, or sold by the postal service entity described in Ruat. The equipment at the sender's location contains a computer system. (Ruat, pg. 6.)
 5. Ruat describes the computer equipment located at the sender's location is used in the following manner. Name and address are entered by means of a keyboard with the amount of the postage of the envelope and are transmitted to the computer system 16. The data transmitted to the computer system 16 can also include information on the identity of the sender, on the type of mailing envelope sent, and the stamp date. Some of this data listed above is encrypted and all of

the data is coded in the form of a bar code and print on a label. The encrypted data includes, among others information, the identity of the sender. (Ruat, pgs. 6-7.) The label containing this information is a self-sticking label that must be attached to the envelope before it is placed into the mail. (Ruat, pg. 8.) Ruat describes that a part of the information for identifying the sender is by means of an encryption key that is assigned or allocated to the sender by the postal service because of a subscription. (Ruat, pg. 9.) Ruat describes the mailing envelope is processed by the postal service in a process represented by Figures 6 and 7. As shown in the figures, in this process, once the mailing envelope enters the postal service process means, the first operation is to read and decode the coded information appearing on the mailing envelope. A decryption key is used decrypt the encrypted data on the mailing envelope. Decrypting the data allows the postal service to, among other things, confirm the identity of the sender. (Ruat, pg. 10.)

PRINCIPLES OF LAW

“The Patent and Trademark Office (“PTO”) determines the scope of claims in patent applications not solely on the basis of the claim language, but upon giving claims their broadest reasonable construction ‘in light of the specification as it would be interpreted by one of ordinary skill in the art.’ *In re Am. Acad. of Sci. Tech. Ctr.*, 367 F.3d 1359, 1364 (Fed. Cir. 2004).” *Phillips v. AWH Corp.*, 415 F.3d 1303, 1316 (Fed. Cir. 2005) (en banc). “The problem is to interpret claims ‘in view of the specification’ without

unnecessarily importing limitations from the specification into the claims.” *E-Pass Techs., Inc. v. 3Com Corp.*, 343 F.3d 1364, 1369 (Fed. Cir. 2003). In other words, care must be taken not to read a particular embodiment appearing in the written description into the claim if the claim language is broader than the embodiment. *See Superguide Corp. v. DirectTV Enterprises, Inc.*, 358 F.3d 870, 875 (Fed. Cir. 2004)

Though understanding the claim language may be aided by the explanations contained in the written description, it is important not to import into a claim limitations that are not a part of the claim. For example, a particular embodiment appearing in the written description may not be read into a claim when the claim language is broader than the embodiment.

Words in claims “are generally given their ordinary and customary meaning” to a person of ordinary skill in the art at the time of the invention. *Phillips v. AWH Corp.*, 415 F.3d at 1312-13 (citing *Vitronics Corp. v. Conceptronic, Inc.*, 90 F.3d 1576, 1582 (Fed. Cir. 1996) *see also* *Innova/Pure Water, Inc. v. Safari Water Filtration Systems, Inc.*, 381 F.3d 1111, 1116 (Fed. Cir. 2004)). How a person of ordinary skill in the art understands a claim term “is based on the well-settled understanding that inventors are typically persons skilled in the field of invention and that patents are addressed to and intended to be read by others of skill in the pertinent art.” *Id.* at 1313. When interpreting a claim, unless the inventor has set forth a definition for a term that term will be given its ordinary and customary meaning as understood by one skilled in the pertinent art. *In re Paulsen*, 30 F.3d 1475, 1480 (Fed. Cir. 1994).

Although a patent applicant is entitled to be his or her own lexicographer of patent claim terms, in *ex parte* prosecution it must be within limits. *In re Corr*, 347 F.2d 578, 580 (CCPA 1965). The applicant must do so by placing such definitions in the Specification with sufficient clarity to provide a person of ordinary skill in the art with clear and precise notice of the meaning that is to be construed.

Anticipation is a question of fact. *In re Schreiber*, 128 F.3d 1473, 1477 (Fed. Cir. 1997). Anticipation is determined by first construing the claims and then comparing the properly construed claims to the prior art. *In re Cruciferous Sprout Litigation*, 301 F.3d 1343, 1346 (Fed. Cir. 2002). “The law of anticipation does not require that the reference “teach” what the subject patent teaches. Assuming that a reference is properly “prior art,” it is only necessary that the claims under attack, as construed by the court, “read on” something disclosed in the reference, i.e., all limitations of the claim are found in the reference, or “fully met” by it.” *Kalman v. Kimberly-Clark Corp.*, 713 F.2d 760, 772 (Fed. Cir. 1983).

With this as background, we analyze the specific rejections made by the Examiner of the claims on appeal.

ANALYSIS

In reaching our decision in this appeal, we have given careful consideration to the Appellant’s Specification and claims, to the applied prior art references, and to the respective positions articulated by the Appellant and the Examiner. Upon evaluation of all the evidence before us, it is our conclusion that the evidence adduced by the Examiner is sufficient

to establish a case of anticipation with respect to claims 1-5, 7-14, 16-24, 26-31, and 37-42. Accordingly, we will affirm the Examiner's decision to reject these claims under 35 U.S.C. § 102(b) while summarily affirming the Examiner's decision to reject claims 6, 15, 25, 32, and 43 under 35 U.S.C. § 103(a).

Our reasoning for this determination follows.

Claims 1-9

The Appellant contends that the Examiner has erred in mixing the terms of "individual," "user," and "customer" in Kara to support the rejection and the first four steps of the method are not described in Kara. (App. Br. 9-13 and Reply Br. 2-8.) The Examiner responds that Kara's "individual," "user," and "customer" are transformed into a "purchaser" because of the process in Kara of an individual having to purchase and register the described inventive device in Kara. (Ans. 7-8.) Thus, the issues between the Examiner and the Appellant appear to focus on claim interpretation of the term "purchaser" and how to interpret the disclosure of Kara, each party having their own interpretation.

The term "purchaser" lacks a definition with sufficient clarity, deliberateness, and precision within the Specification. Without a definition of sufficient clarity, deliberateness, and precision, the term is given its ordinary and customary meaning to a person of ordinary skill in the art at the time of the invention. Although an inventor is indeed free to define the specific terms used to describe his or her invention, this must be done with reasonable clarity, deliberateness, and precision. "Where an inventor chooses to be his own lexicographer and to give terms uncommon meanings,

he must set out his uncommon definition in some manner within the patent disclosure” so as to give one of ordinary skill in the art notice of the change. *See In re Paulsen*, 30 F.3d at 1480. In this case, the term “purchaser” is “readily apparent even to lay judges and [this] claim construction ... involves little more than the application of widely accepted meaning of commonly understood words.” *Phillips*, 415 F.3d at 1314. As such, a “purchaser” would be a person or entity that obtains, gains, or acquires something through some means: money, labor, danger, or sacrifice. (Fact 1.) The Examiner found as a precondition of purchasing the postal indicia, Kara describes a user has to obtain a postal storage device, signup for the service, and specify his or her full name and address, and either EIN or SSN. We agree. (See Fact 2.) We find this description in Kara satisfies the limitation of requiring, as a precondition of purchasing of postal indicia, receipt of information about the purchaser’s identity. As the claim is properly interpreted, a purchaser is a person that obtains, gains, or acquires the postal indicia through some means. Kara describes a person who obtains the postage through the means of receipt and installation of the program. In order for the person to obtain access to the postage the person needs to install the program and provide information about his or her identity. (Facts 2 and 3.) As such, Kara sets a precondition of identity on obtaining the postage. The Examiner found that Kara describes printing information indicative of the purchaser on the postage indicia. We agree. (See Fact 3.) The Appellants contend the Examiner erred in not identifying where in Kara the third step is described that is tied with the second step by virtue of printing information on the postal indicia and that this information is electronically functionally derived from the computation of identity

information. (App. Br. 11-12.) We disagree. Kara describes encrypting information and that information contains information with respect to identity information. (Fact 3.) Information is electronically encrypted by using hash functions. Hash functions are computations of the information that is going to be encrypted. Moreover, we find Kara describes receiving the addressed mail with the indicia into the mail. (*Id.*)

Accordingly, we are not persuaded by the Appellant's arguments that the Examiner erred in finding Kara describes the first four claimed steps in claim 1.

The Appellant argued claims 1-9 as a group. Accordingly, claims 2-9 fall with claim 1. 37 C.F.R. § 41.37(c)(1)(vii) (2007). Moreover, we summarily affirm the rejection claim 6 under 35 U.S.C. § 103(a) advanced by the Examiner, because Appellant has neither requested review of this ground of rejection as to claim 6, withdraw of the appeal of this claim, nor addressed the merits of this rejection in the Appeal Brief or Reply Brief. *See* 37 C.F.R. §§ 41.37(c)(1)(vi) and (vii) (2007); *Manual of Patent Examining Procedure* § 1205.02.

Claims 10-19

The Appellant incorporates his remarks with respect to the deficiencies found in Kara with respect to claim 1 for reasons why Kara is deficient for finding claim 10 anticipated by it. (App. Br. 13-14.) In addition, the Appellant argues the Examiner erred because he did not recognize the difference in preconditions between claims 1 and 10 with respect to purchasing a postal indicia and receiving into mail items with the purchased postal indicia. (App. Br. 14.) The Appellant further contends

both preconditions require information be derived indicative of the purchaser's identity and Kara fails to describe such. (*Id.*)

As pointed out above, the deficiencies in Kara with respect to claim 1 do not exist. We are not convinced there is a reversible error in the rejections because the Examiner appeared to fail to recognize the difference in preconditions with respect to claims 1 and 10. Moreover, while Kara does not require a piece of mail must bear information derived by electronic computation indicative of information with respect to identity, Kara does describe this may occur. (Fact 3.)

Accordingly, we are not persuaded by the Appellant's arguments that the Examiner erred in finding Kara describes the process of claim 10.

The Appellant argued claims 10-19 as a group. Accordingly, claims 11-19 fall with claim 10. 37 C.F.R. § 41.37(c)(1)(vii) (2007). Moreover, we summarily affirm the rejection claim 15 under 35 U.S.C. § 103(a) advanced by the Examiner, because Appellant has neither requested review of this ground of rejection as to claim 15, withdraw of the appeal of this claim, nor addressed the merits of this rejection in the Appeal Brief or Reply Brief. *See* 37 C.F.R. §§ 41.37(c)(1)(vi) and (vii) (2007); *Manual of Patent Examining Procedure* § 1205.02.

Claims 20-29

The Appellant incorporates his remarks with respect to the deficiencies found in Kara with respect to claim 1 for reasons why Kara is deficient for finding claim 20 anticipated by it; in addition to, the claim requires that postal indicia on a piece of mail must bear information derived

by electronic computation from information indicative of identity. (App. Br. 14-15.)

As pointed out above, the deficiencies in Kara with respect to claim 1 do not exist. While Kara does not require a piece of mail must bear information derived by electronic computation indicative of information with respect to identity, Kara does describe this may occur. (Fact 3.)

Accordingly, we are not persuaded by the Appellant's arguments that the Examiner erred in finding Kara describes the process of claim 20.

The Appellant argued claims 21-29 as a group. Accordingly, claims 21-29 fall with claim 20. 37 C.F.R. § 41.37(c)(1)(vii) (2007). Moreover, we summarily affirm the rejection claim 25 under 35 U.S.C. § 103(a) advanced by the Examiner, because Appellant has neither requested review of this ground of rejection as to claim 25, withdraw of the appeal of this claim, nor addressed the merits of this rejection in the Appeal Brief or Reply Brief. *See* 37 C.F.R. §§ 41.37(c)(1)(vi) and (vii) (2007); *Manual of Patent Examining Procedure* § 1205.02.

Claim 30-32

The Appellant contends Ruat lacks disclosing the limitation of a recipient possessing a list of expected senders and determining whether the sender whose identity is indicated by information on the mail piece is on the list of senders. Appellant's contention is premised on the flawed assumption of the recipient in Ruat has to be what the Appellant's Specification discloses as a recipient. A reference does not have to "teach" the Appellant's claimed invention, it is only necessary that the claims on appeal are described by something within the reference. In this case, the

“something” is the recipient being the postal service entity described in Ruat. The postal serviced described in Ruat receives mail, moreover before anyone else, in order to deliver the mail. Ruat describes the equipment shown in Figure 1 is intended to be installed at the site of a mailing envelope sender to whom the equipment has been rented, lent, or sold by the postal service entity described in Ruat. (Fact 4.) The postal service would have a list of senders that have rented, leased, or bought such equipment. The equipment at the sender’s location contains a computer system. (*Id.*) A sender mailing an envelope would enter a name, address, and amount of the postage of the envelope. (Fact 5.) This information is transmitted to the computer system at the sender’s location. (*Id.*) The data transmitted to the computer system can also include information on the identity of the sender, on the type of mailing envelope sent, and the stamp date. (*Id.*) Some of this data listed above is encrypted and all of the data is coded in the form of a bar code and printed on a label. (*Id.*) The encrypted data includes, among others information, the identity of the sender. (*Id.*) The encryption is the point where information indicative of the identity of the sender is converted by electronic computation to the second information that is read by the postal service as will be described *infra*. The label containing this information is a self-sticking label that must be attached to the envelope before it is place into the mail. (*Id.*) Ruat describes a part of the information for identifying the sender is by means of an encryption key that is assigned or allocated to the sender when the sender is known by the postal service because of a subscription. (*Id.*) By virtue of the postal service described in Ruat giving subscriptions, the postal service would have a list of the subscribers for its records and those subscribers would be senders of mail to

the postal service. Ruat describes during processing by the postal service a decryption key is used to decrypt the encrypted data on the mailing envelope. (*Id.*) Decrypting the data allows the postal service to, among other things, confirm the identity of the sender. (*Id.*) As such, the description in Ruat when the “recipient” is considered the postal service, which receives the mail from senders, satisfies the limitations of claim 30.

Accordingly, we are not persuaded by the Appellant’s arguments that the Examiner erred in finding Ruat describes the process of claim 30.

The Appellant argued claims 30-32 as a group. Accordingly, claims 31 and 32 fall with claim 30. 37 C.F.R. § 41.37(c)(1)(vii) (2007). Moreover, we summarily affirm the rejection claim 32 under 35 U.S.C. § 103(a) advanced by the Examiner, because Appellant has neither requested review of this ground of rejection as to claim 32, withdraw of the appeal of this claim, nor addressed the merits of this rejection in the Appeal Brief or Reply Brief. *See* 37 C.F.R. §§ 41.37(c)(1)(vi) and (vii) (2007); *Manual of Patent Examining Procedure* § 1205.02.

Claims 37-39

The Appellant incorporates his remarks with respect to the deficiencies found in Kara with respect to claim 1 for reasons why Kara is deficient for finding claim 37 anticipated by it and; in addition to, the Examiner having erred mixing by the terms of “individual,” “user,” and “customer” in Kara to support the rejection. (App. Br. 17-19.)

As pointed out above, the deficiencies in Kara with respect to claim 1 do not exist. Likewise, as discussed *supra* we find when the term

“purchaser” is properly interpreted; the Examiner has not erred in mixing terms to support the rejection.

Accordingly, we are not persuaded by the Appellant’s arguments that the Examiner erred in finding Kara describes the product of claim 37.

The Appellant argued claims 37-39 as a group. Accordingly, claims 38 and 39 fall with claim 37. 37 C.F.R. § 41.37(c)(1)(vii) (2007).

Claim 40

The Appellant incorporates his remarks with respect to the deficiencies found in Kara with respect to claim 1 and 37-39 for reasons why Kara is deficient for finding claim 40 anticipated by it.

As pointed out above, the deficiencies in Kara with respect to claim 1 do not exist. Likewise, as discussed *supra* we find when the term “purchaser” is properly interpreted; the Examiner has not erred in mixing terms to support the rejection.

Accordingly, we are not persuaded by the Appellant’s arguments that the Examiner erred in finding Kara describes the process of claim 40.

Claims 41-43

The Appellant incorporates his remarks with respect to the deficiencies found in Ruat with respect to claim 30 for reasons why Ruat is deficient for finding claim 41 anticipated by it.

As pointed out above, the deficiencies in Ruat with respect to claim 30 do not exist when the recipient is considered the postal service.

Accordingly, we are not persuaded by the Appellant's arguments that the Examiner erred in finding Ruat describes the process of claim 41.

The Appellant argued claims 41 and 43 as a group. Accordingly, claim 43 falls with claim 41. 37 C.F.R. § 41.37(c)(1)(vii) (2007).

With respect to claim 42, the Appellant contends the recipient in Ruat only has the ability to read coded non-encrypted information. (App. Br. 19.) However, this contention is based again on the flawed assumption that the recipient has to be the recipient as the Appellant has disclosed in Specification. Again, a reference does not have to teach the Appellant's claim invention, only that the claims on appeal "read on" (i.e., are described by) something disclosed in the prior art reference. When the postal service described in Ruat is considered the recipient, the limitation is described by something in Ruat. Ruat describes the postal service does have the ability read the encrypted information. (Fact 5.)

Accordingly, we are not persuaded by the Appellant's arguments that the Examiner erred in finding Ruat describes the process of claim 42.

CONCLUSIONS OF LAW

The Appellant has not proven that the Examiner erred in rejecting claims 1-5, 7-14, 16-24, 26-31, and 37-42 as being anticipated by Kara or Ruat.

Appeal 2007-4057
Application 09/683,426

DECISION

The Examiner's decision to reject claims 1-32 and 37-43 is affirmed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a). *See* 37 C.F.R. § 1.136(a)(1)(iv) (2007).

AFFIRMED

hh

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